

Att. Ref.:25987

**English translation of an Examination Report, issued by the GPTO on
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IPC G06F 13/12

In this Office Action the following citations are named for the first time. (If numbered, the numbering also applies throughout the further proceedings.)

5) DE 43 32 063 A1

6) EP 0 237 671 A2

1.)

The applicant in the submission of June 19, 2006, received on June 20, 2006, filed new patent claims 1 and 2 for an auxiliary request and revised pages of the description 2 to 4.

2.)

The patent sought, on the one hand, is directed to a method for updating operating characteristics of a terminal in which the terminal is put into a first operating condition and the operating characteristics are downloaded from a remote host and whereby upon downloading the first operating condition is cancelled and the terminal put into a second operating condition (patent claim 1).

On the other hand, the patent sought is directed to a method for configuring a terminal in which within a portion of the terminal display at least one bitmapped area is generated which has at least one bitmapped group and in which at least one bitmapped selection is generated within the group,

with the selection allowing for one or several options for selection (patent claim 2).

These two subject matters obviously do not serve to solve a uniform problem of a uniform task.

The application therefore does not have the unity of subject matter of the application required according to § 34, fifth paragraph Patent Law.

For overcoming this shortcoming the application is to be limited to one of the two subject matters, see the enclosed printed form P 2410 (unity). If this does not happen, the application would have to be rejected for lacking unity.

Further according to the named printed form it is to be declared whether the other subject matter is to be branched off from the present application, consequently to be further pursued in a branched-off, i.e. an independent and thus fee-incurring application with the original application date (i.e. the application date of the present basic application) or whether it is no longer further pursued.

3.)

As to the main request:

3.1.) A method for updating operating characteristics of a terminal according to the present patent claim 1 of the main request is rendered obvious to the expert in the field of information and communication technology from the prior art.

Corresponding to the subject matter of patent claim 1 it may be gathered from the **document 3 a**

method for updating operating characteristics of a terminal (user terminal 10 – cf. i.a. Fig. 8, col. 7, lines 18 to 30) which is linked via a communication link (cf. i.a. Fig. 8, col. 7, lines 31 to 39) with a host (central station 9) and which has a memory system (ROM circuit 3,

RAM 4) that comprises at least one non-volatile memory (rewritable EEPROM 31 – cf. i.a. Fig. 1), wherein in the memory a firmware (apparatus control program – cf. i.a. col. 6, lines 26 to 29) is stored that comprises the operating system for operating the terminal, with it neither falling back on the PC/AT BIOS standard nor on the PC-compatible board operating systems (cf. i.a. abstract, Fig. 2, 3 and description, in particular col. 7, line 31 to col. 8, line 7)

characterized in that

- the terminal is put into a first operating condition in which it can be written into at least one predetermined portion of the memory system and a communication with the host is possible (cf. i.a. Fig. 7, condition "lock power switch"),
- in this condition the updated operating characteristics provided by the host via the communication link are downloaded to the terminal and the updated operating characteristics are possibly written into the non-volatile memory (cf. i.a. Fig. 7, col. 11, line 24 and following lines, lines 46 to 52), and
- the first operating condition is cancelled, whereby the terminal is put into an operating condition in which the data are written into the predetermined portion of the storage system (condition "unlock power switch" – cf. i.a. Fig. 7), but the communication with the host is sustained (col. 11, line 24 to col. 12, line 12).

The employment of FLASH Eproms as non-volatile memory is described in the document 2. The document 2 discloses the updating (reprogramming) of communication terminals, wherein the teaching described here can be applied to all possible microprocessor-based devices (cf. p. 1, lines 4 to 6). In the programming mode the sending device adopts the master mode and the receiving device whose control software is renewed adopts the slave mode (cf. i.a. Fig. 2B). The terminal control software is stored in a FLASH Eprom (10) (cf. i.a. Fig. 1).

As both documents deal with the updating of firmware, it is obvious for the expert to view the documents 2 and 3 in combination and thus to arrive at the subject matter of patent claim 1.

Patent claim 1 thus is achievable without an inventive activity to be applied for its subject matter and therefore is not grantable.

Moreover, the document 5 equally deals with the (re)programming of a microcomputer circuit. The firmware is downloaded by a host (here PC 16) and stored in a EEPROM as in the D3 (cf. i.a. Fig. 1).

3.2.) A method for configuring a terminal according to present patent claim 2 of the main request is already known to the expert in the field of information and communication technology.

Corresponding to the subject matter of the patent claim 2 it may be gathered from the document 4 a

method for configuring a terminal (local system having a display for the communication with a host system (remote system) and is not configured to locally implement application programs, in particular Windows^R programs (cf. i.a. abstract, col. 3, lines 11 to 24, Fig. 1 to 4) characterized in that for the configuration of the terminal within a portion of the display at least one bitmapped area (screen) is generated, in which at least one bitmapped group (multiple choice field selection block – cf. i.a. element 322 in Fig. 1) is provided and at least one bitmapped selection within the group is generated, wherein each selection involves one or several options for selection (cf. i.a. also Fig. 2, elements "dial type" and "external modem speed" or Fig. 4, elements "duplex" or "type").

Moreover, the expert at the time of application was well familiar with "non-Windows^R" graphical user interfaces with choice boxes, e.g. in "ATARI ST" computer of the company Atari or the Workbench in Amiga of the company Commodore.

The patent claim 2 thus is not grantable due to lacking novelty of its subject matter.

The document 6 discloses a similar subject matter to that of the application (cf. i.a. abstract).

4.)

As to the auxiliary request:

Patent claim 1 of the auxiliary request differs from that of the main request in the facultative features

- a) "in particular through inserting a feedback loop plug or through a key sequence"
- b) in particular employing an emulation of a client/server network environment".

In the understanding of the Examining Division these features do not contribute to an inventive performance. The teachings in the established prior art disclose comparable solutions.

Patent claim 2 of the auxiliary request differs from that of the main request in the feature:

"due to bitmap images provided in a register".

In the understanding of the Examining Division this feature does not contribute to an inventive performance; the fact that the bitmap images (e.g. icons) are deposited in a register comes within the understanding of the expert in the field.

Patent claims 1 or 2 of the auxiliary request thus are equally not grantable.

In view of this substantial and legal situation no prospects for success of the application can be held out for the time being.

5.)

Should the applicant still see something patentable in a different technical peculiarity, applicant, beyond removing the lack of unity, is asked to

- a) present a clarified, positively formulated task now underlying the subject matter of the application,
- b) present a new patent sought which is demarcated against the prior art the main claim of which provides a clear and complete solution with technical means or measures,
- c) possibly furnish evidence of features newly introduced into the patent sought as being disclosed in the original documents in a way essential to the invention,
- d) explain the inventive step over the established prior art due to the technical solution features,
- e) adapt the description to the new patent sought and
- f) consider the prior art established in the examination procedure (D1 to D6) in the introduction to the description.

Should the application, however, be maintained with the same patent sought or one of the same content, a rejection of the application has to be reckoned with.

Examining Division G06F

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